

REMARKS

This application has been carefully reviewed in light of the Office Action dated June 8, 2010. Claims 1 to 5, 7 to 11, 13 to 17, 22, 24, 25, 30, 32 and 33 are in the application, of which the following claims are independent: Claims 1, 7, 13, 22, and 30. Reconsideration and further examination are respectfully requested.

Turning first to a formal matter concerning the drawings, it is respectfully requested to receive approval for the substitute drawing sheet transmitted with a Letter dated February 13, 2009. This is a third request.

Turning to the Office Action, Claims 1 to 18 and 26 to 29 were rejected under 35 U.S.C. § 101. According to the Office, these claims are directed to a computer-readable memory medium, which could be interpreted as transitory computer readable memory medium, and hence are non-statutory. The rejections are respectfully traversed, as explained more fully below.

First, with respect to Claims 7, 22 and 30, these claims are clearly not directed to a computer-readable memory medium. Rather, Claim 7 is directed to a method performed in an XML-based browser, Claim 22 is directed to a method for displaying a multimedia presentation on a display of a computer executing an XML-based browser, and Claim 30 is directed to an apparatus. Accordingly, with respect to these claims, the premise of the rejection is faulty, such that the rejection should be withdrawn.

Second, with respect to Claims 1 and 13, although it is true that these claims include a computer-readable storage medium, or a computer-readable memory medium,

Applicants respectfully dispute the Office's conclusion that such claims are broad enough to cover merely transitory signals and carrier waves. Claim 1 very clearly specifies a "memory" medium, and it is not understood how a signal or carrier wave involves the function of "memory". Likewise, Claim 7 very clearly specifies a "storage" medium, and it is not understood how the function of storage is achieved by mere signals and carrier waves.

Nevertheless, in an effort to end debate on this topic, the phrase "non-transitory" has been inserted into each of Claims 1 and 7. It is therefore believed that the claims herein recite subject matter that is statutory pursuant to § 101, and withdrawal of the § 101 rejection is respectfully requested.

Claims 1 to 29 were rejected under 35 U.S.C. § 103(a), primarily over a W3C working draft authored by Bugaj in view of U.S. Patent 6,442,765 (Lemmons) and U.S. Patent 6,615,408 (Kaiser). Reconsideration and withdrawal of these rejections are respectfully requested, as explained in more detail below.

The claims herein concern XML-based elements structured for use by a computer to display a multimedia presentation and a visual cue on a display of the computer. According to one aspect of the claims herein, the XML-based elements comprise at least a multimedia presentation element which includes information for access to the multimedia presentation, together with a visual cue element which is nested within the multimedia presentation element. According to a further aspect of the claims herein, the visual cue element includes a visual attribute, a spatial attribute and a temporal attribute.

It is respectfully submitted that the art applied against the claims does not disclose or fairly suggest at least the above-noted features, particularly the nested relationship of a visual cue element which is nested within a multimedia presentation element, wherein the visual cue element includes all of a visual attribute, a spatial attribute and a temporal attribute, as defined by the claims herein.

In entering its rejection of the claims, the Office Action took the position (at page 8) that Bugaj provides a teaching of a nested relationship. Applicants respectfully disagree with this assertion. In particular, as understood by Applicants, with respect to the elements of Bugaj that were cited by the Office, each such element is defined with spatial independence. For example, as described at page 4 (“5.1 layout element”) and page 18 (“7.1 SMIL basic layout”), each element is defined with spatial independence.

As a consequence, because the elements of Bugaj cited by the Office are arranged in spatial independence, it naturally follows that Bugaj fails to disclose or to suggest the claimed nested relationship, wherein a visual cue element is nested within a multimedia element.

It further naturally follows that Bugaj could not disclose or suggest the claimed nature of the visual cue element, wherein the visual cue element includes a visual attribute, a spatial attribute and a temporal attribute as defined herein.

Lemmons has been reviewed, but it is not seen to add anything to the above-noted deficiencies in Bugaj. As previously indicated, Lemmons describes tags <T1>, <T2> and <T3>, but there is no notion in Lemmons of a time dependence between these tags, nor is there any notion in Lemmons of a spatial relationship between these tags.

As for Kaiser, the Office did not rely on Kaiser for any of the above-noted deficiencies in Bugaj, and in the view of the Applicants herein, Kaiser does not disclose or suggest any of them.

It is therefore respectfully submitted that the claims herein recite subject matter that would not have been obvious from the applied art, and allowance is respectfully requested.

REQUEST FOR INTERVIEW

This is a written request for a telephone interview with the Examiner, pursuant to MPEP § 713.01:

"Where the reply to a first complete action includes a request for an interview, a telephone consultation to be initiated by the examiner or a video conference, or where an out-of-town attorney under similar circumstances requests that the examiner defer taking any further action on the case until the attorney's next visit to Washington (provided such visit is not beyond the date when the Office action would normally be given), the examiner, as soon as he or she has considered the effect of the reply, should grant such request if it appears that the interview or consultation would result in expediting the case to a final action."

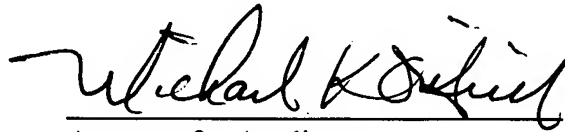
In view of the above remarks, Applicants submit that the entire application is in condition for allowance. However, if the Examiner does not agree, Applicants respectfully request an interview to discuss the differences between the present invention and the applied art. A Request for Suspension is being filed concurrently herewith specifically for the purpose of facilitating the scheduling of such an interview.

For his part, the undersigned will telephone the Examiner in the following weeks in an effort to determine the status of the application, and also to schedule an interview. Accordingly, however, if the Examiner reaches this case for action before an interview has been scheduled, Applicants respectfully request that the Examiner contact the undersigned at (714) 540-8700 for scheduling of an interview.

CONCLUSION

Applicants' undersigned attorney may be reached in our Costa Mesa, California office at (714) 540-8700. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael K. O'Neill", is written over a horizontal line.

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